

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

ALEXANDER JOHN STRUTZ,

Plaintiff,

vs.

Case No. 19-3098-SAC

DR. DANIEL STANTON and
WELLPATH RECOVERY SOLUTIONS,

Defendants.

O R D E R

On November 27, 2019, a Martinez report (Doc. No. 8) was filed in response to the court's order at Doc. No. 7. The Tenth Circuit has stated:

[I]n particular circumstances the Martinez report may be considered part of the pleadings for purposes of Fed.R.Civ.P. 12(b). . . . [W]e have authorized the district court to require a Martinez report to develop a basis for determining whether a prisoner plaintiff has a possibly meritorious claim. The purpose of the Martinez report is to identify and clarify the issues plaintiff raises in his complaint. It also aids the court in its broad reading of the pro se litigant's pleadings . . . by supplementing a plaintiff's often inadequate description of the practices that he contends are unconstitutional. When the plaintiff challenges a prison's policies or established procedures and the Martinez report's description of the policies or procedures remains undisputed after plaintiff has an opportunity to respond, we should, and will treat the portion of the Martinez report describing the policies or procedures like a written document that has been attached to plaintiff's complaint.

Hall v. Bellmon, 935 F.2d 1106, 1112-13 (10th Cir. 1991)(interior citations omitted).

Although a Martinez report is treated more like an affidavit than a motion (see Dickey v. Merrick, 90 Fed.Appx. 535, 537 (10th Cir. 2003)), the court shall grant plaintiff time until December 27, 2019 to file a response to Doc. No. 8 if he wishes to do so.

IT IS SO ORDERED.

Dated this 3rd day of December, 2019, at Topeka, Kansas.

s/Sam A. Crow _____
Sam A. Crow, U.S. District Senior Judge